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BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)

) MUR 6888

CELA

The Honorable Tom Reed)
Tom Reed for Congress)
And Marc Valerio, as Treasurer)

**RESPONSE OF THE HONORABLE TOM REED AND
TOM REED FOR CONGRESS, AND MARC VALERIO, AS TREASURER,
TO THE SECOND SUPPLEMENTAL COMPLAINT**

This responds on behalf of our clients, The Honorable Tom Reed, Tom Reed for Congress, and Marc Valerio, as Treasurer (collectively "Campaign or "Respondents"), to the notification from the Federal Election Commission ("Commission" or "FEC") that a second supplemental complaint was filed against them in the above-captioned matter. A fair and objective review of the complaints in this matter reveals that they are nothing more than a coordinated harassment campaign by the complainants in a fallacious attempt to multiply the legal costs for the Respondents, including the Respondents. The Commission must not allow itself to be manipulated in this manner.

Moreover, the second supplemental complaint, like the previous complaints, is legally deficient and must be dismissed because it fails to clearly and concisely recite any facts that constitute a violation of the Act or Commission regulations.¹ The Commission has already made clear that simple speculation by a complainant is insufficient and does not establish that there is reason to believe a violation occurred. MUR 5467 (Michael Moore), First General Counsel's Report at 5 ("Purely speculative charges, especially when accompanied by a direct refutation, do not form the adequate basis to find reason to believe that a violation of [the Act]

¹ Our response to the original and supplemental complaints that was filed with the Commission on January 6, 2015, is hereby incorporated into this response by reference.

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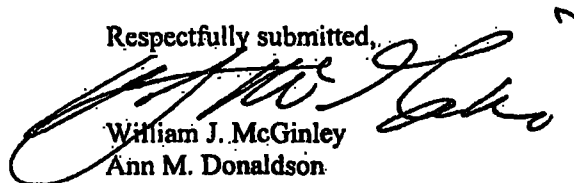
has occurred." (quoting MUR 4960 Statement of Reasons at 3)). Due process and fundamental fairness dictate that the burden must not shift to a respondent merely because a complaint is filed with the Commission. See MUR 4850 (Deloitte & Touche, LLP), Statement of Reasons of Chairman Darryl R. Wold and Commissioners David M. Mason and Scott E. Thomas at 2 (rejecting the Office of General Counsel's recommendation to find reason to believe because the respondent did not specifically deny conclusory allegations, and holding that "[a] mere conclusory allegation without any supporting evidence does not shift the burden of proof to the respondents.").

Further, the second supplemental complaint still does not identify any public communication that references Congressman Reed or that could otherwise satisfy the content standards under 11 C.F.R. § 109.21. For this reason alone, the second supplemental complaint is legally deficient as applied against the Campaign, does not satisfy the threshold burden for the Commission to find reason to believe that a violation occurred, and must be dismissed. 68 Fed. Reg. at 430 ("In this light, the content standard may be viewed as a 'filter' or a 'threshold' that screens out certain communications from even being subjected to analysis under the conduct standards.").

The Complaints in the instant matter are a dishonest attempt to shift the burden to the Respondents through the use of innuendo and conjecture. They make spurious claims that are not supported by the factual allegations contained in the Complaints and their legal theories do not satisfy the Commission's regulatory requirements to support a reason to believe finding. *Machinists Non-partisan Political Action Comm. v. FEC*, 655 F.2d 380, 388 (D.C. Cir. 1981) ("[M]ere 'official curiosity' will not suffice as the basis for FEC investigations").

For all of the reasons stated above, there is no factual or legal basis for finding reason to believe a violation was committed by the Respondents. Accordingly, we respectfully request that the Commission dismiss the Complaint against the Respondents, close the file, and take no further action.

Respectfully submitted,



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